

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5921 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARSINHBHAI S PATEL

Versus

RANCHHODBHAI SHAMBHUBHAI PATEL

Appearance:

MR PB MAJMUDAR for Petitioners

MR AJ PATEL for Respondent No. 1

SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/08/96

ORAL JUDGMENT

Heard learned counsel for the parties. Challenge is made by the petitioner to the order of the Gujarat Revenue Tribunal, Ahmedabad, dated 16.8.83 made in Revision Application No.TEN.B.A./676/83.

2. The petitioner filed an application u/s.32 of the Bombay Tenancy and Agricultural Lands Act, 1948

(hereinafter referred to as the 'Act 1948'), praying therein for declaring him to be tenant of the land in dispute and deemed purchaser of the disputed land and to fix price of the land. It is not in dispute that in civil litigation between the parties, which was a suit for partition, the trial Court has considered this property to be a joint family property and that decision of the trial Court has been confirmed by this Court in the First Appeal. The Tribunal has rightly held that in the partition suit a decree has been made in respect of this property also. The disputed land was a joint Hindu family property and as such the father of the petitioner was having interest therein as a coparcener as a result of which his heirs were joint owners of the said property alongwith other family members, who are opponents herein. The Tribunal, relying on decision of this Court, has rightly held that nobody can claim right of tenancy as against himself and that the joint owner cannot claim himself to be a tenant in the land belonging to his joint family. The Tribunal has not committed any error in rejecting the revision of the petitioner. The petitioner was not entitled for benefits as prayed for u/s.32G of the Act 1948.

3. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged. Ad-interim relief granted by this Court stands vacated. No order as to costs.

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(sunil)